

set forth in paragraph (b)(1) of this section, the harvested county average peanut yield, determined according to peanut production information reported according to part 729 of this chapter, shall be used.

(c) The average harvested yield, to be used at the producer's option in paragraph (b)(1) of this section, shall be determined by calculating the weighted 7-year average for each type of yield for the years 1990 through 1997 of:

(1) The NASS harvested peanut irrigated yield for the county for each year;

(2) The NASS harvested peanut non-irrigated yield for the county for each year;

(3) The NASS harvested peanut blended yield for all counties where the yields in paragraphs (c)(1) and (c)(2) of this section are unavailable for each year for all acreage regardless of whether or not the acres were irrigated or nonirrigated;

(4) The average yield for the county, determined in accordance with paragraph (b)(3) of this section for each year.

§ 1412.703 Assignment of average peanut yields and average peanut acreages to farms.

(a) The Deputy Administrator shall give each historical peanut producer an opportunity to assign the average peanut yield determined in accordance with § 1412.702 and average acreage determined in accordance with § 1412.701 for each farm of the historic peanut producer to cropland on that farm or another farm in the same State or a contiguous State.

(b) Notwithstanding paragraph (a) of this section, the average acreage determined under § 1412.701 for a farm may be assigned to a farm in a contiguous state only if either of the following apply:

(1) The historic peanut producer making the assignment produced peanuts in that State during at least one of the 1998 through 2001 crop years; or

(2) As of March 31, 2003, the historic peanut producer is a producer on a farm in that State.

(c) The Deputy Administrator shall provide notice to historic peanut producers regarding the opportunity to as-

sign average peanut yields and average acreages to farms under paragraph (a) of this section. The notice shall provide the following information:

(1) Notice that the opportunity to make the assignments is being provided only once;

(2) A description of the limitations in paragraph (b) of this section on their ability to make their assignments; and

(3) Information regarding the manner in which the assignments must be made and the time periods and manner in which notice of the assignments must be submitted to the Deputy Administrator.

(d) Not later than March 31, 2003, an historic peanut producer shall submit to the Deputy Administrator notice of the assignments made by the producer under this section. If a historic peanut producer fails to submit such notice by that date, that base and yield shall be assigned to the most recent farm associated with such base and yield, as determined by FSA records.

(e) The average of all yields assigned by a historic peanut producer under paragraph (a) of this section to a farm shall be considered to be the payment yield for that farm for the purpose of making direct and payments and counter-cyclical payments under this part, beginning with crop year 2003.

(f) The total number of acres assigned by historic peanut producers under paragraph (b) of this section to a farm shall be considered to be the farm's base acres for peanuts for the purpose of making direct payments and counter-cyclical payments under this part, beginning with crop year 2003.

[67 FR 64751, Oct. 21, 2002, as amended at 68 FR 37939, June 26, 2003; 68 FR 67939, Dec. 5, 2003]

Subpart H—Peanut Quota Buyout Program

SOURCE: 67 FR 61472, Oct. 1, 2002, unless otherwise noted. Redesignated at 67 FR 64751, Oct. 21, 2002.

§ 1412.801 Applicability.

The regulations in this subpart govern the Peanut Quota Buyout Program of the Commodity Credit Corporation (CCC). Generally, CCC will enter into contracts with eligible peanut quota

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holders that provide for payments to such holders based upon the amount of the 2001 crop peanut quota assigned to farms owned by such holders as of May 13, 2002.

§ 1412.802 Administration.

(a) The program will be administered under the general supervision of the Executive Vice President, CCC, and shall be carried out by the Farm Service Agency (FSA) State and county committees (State and county committees).

(b) State and county committees, their representatives and employees, have no authority to modify or waive provisions of this subpart, except as provided in paragraph (e) of this section.

(c) The State committee shall take any action required by the regulations of this part that the county committee has not taken. The State committee shall also:

(1) Correct, or require a county committee to correct any action taken by such county committee that is not in accordance with this part; or

(2) Require a county committee to withhold taking any action that is not in accordance with this part.

(d) No provision or delegation to a State or county committee shall preclude the Executive Vice President, CCC, or a designee, from determining any question arising under the program or from reversing or modifying any determination made by a State or county committee.

(e) The Deputy Administrator may authorize State and county committees to waive or modify deadlines, except statutory deadlines, and other non-statutory requirements in cases where lateness or failure to meet such other requirements does not adversely affect operation of the program.

(f) A representative of CCC may execute a contract for a quota buyout only under the terms and conditions of this part, and as determined and announced by the Executive Vice President, CCC. Any contract that is not executed in accordance with such terms and conditions, including any purported execution prior to the date authorized by the Executive Vice President, CCC, is null and void and shall not be considered to

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be a contract between CCC and any person executing the contract.

§ 1412.803 Definitions.

The definitions in this section shall apply for all purposes of administering the Peanut Quota Buyout. The terms defined in part 718 of this title and part 1400 of this chapter shall also be applicable, except where those definitions conflict with the following definitions in this section:

Contract means a Peanut Quota Buyout Program Contract, and its Appendix for the Peanut Quota Buyout Program to be executed on a form and in a manner as prescribed by CCC.

Deputy Administrator means the Deputy Administrator for Farm Programs, FSA, or a designee.

Eligible Quota means the amount of peanut quota owned by an eligible peanut quota holder as of May 13, 2002, based on the 2001 quota for the purposes of determining Peanut Quota Buyout Program payments. Eligible quota does not include peanut quota established for seed or experimental purposes and quotas subject to a temporary lease or transfer.

§ 1412.804 Appeals.

A person may obtain reconsideration and review of any adverse determination made under this part in accordance with the appeal regulations found at parts 11 and 780 of this title.

§ 1412.805 Enrollment; special filing and payment provisions for persons who are not the peanut quota holder of record.

(a) Enrollment for the Peanut Quota Buyout Program begins September 3, 2002, and ends November 22, 2002. Application for payment must be made by signing the contract. Payments will be made by CCC to eligible peanut quota holders as soon as practicable beginning October 11, 2002.

(b)(1) If contracts or other written claims are provided to CCC by October 11, 2002, by two or more persons with respect to the same peanut quota used to calculate a Peanut Quota Buyout Program payment, CCC will not issue such payment until CCC has determined the eligibility status of each claimant.